

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS**

CLIFFORD PATTON,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 19-CV-946- GCS
)	
JIMMIE POWELL and)	
J & H TRUCKING, INC.,)	
)	
Defendant,)	

SECOND AMENDED COMPLAINT

Count I

**Patton v. Jimmie Powell
(Negligence)**

NOW COMES the Plaintiff, CLIFFORD PATTON, by his attorneys, KIRKPATRICK LAW OFFICES, P.C., and in support of their complaint against the Defendant, JIMMIE POWELL, states as follows:

1. Plaintiff CLIFFORD PATTON is a resident and citizen of the State of Illinois in St. Clair County. Defendant JIMMIE POWELL is a resident and citizen of the State of Kansas in Allen County. Defendant J&H TRUCKING, INC., is a Corporation licensed under the laws of Kansas with its principal place of business in Kansas in Sedgwick County. The amount in controversy, without interests and costs, exceeds the sum or value of \$75,000.00 as set forth in 28 U.S.C. section 1332.

2. That on or about April 3, 2019, and at all times mentioned herein, defendant Jimmie Powell was driving a semi-tractor and trailer westbound on

Interstate highway 64 near milepost 60 in Washington County, Illinois as an employee or agent of J & H Trucking, Inc.

3. That at said time, J & H Trucking, Inc., was a corporation doing business in the State of Illinois engaged in the business of operating semi-tractor trailers by and through its agents or employees.

4. That on said date, the Plaintiff, CLIFFORD PATTON, was driving an orange Illinois Department of Transportation (hereinafter referred to as "IDOT") dump truck as part of a road repair maintenance crew and was authorized to do work upon west bound Interstate 64 in Washington County, Illinois.

5. Interstate 64 is a highway with two lanes for east bound traffic and two lanes for west bound traffic.

6. Plaintiff, CLIFFORD PATTON, was part of an IDOT maintenance crew that included three IDOT trucks and workers actively making repairs as they slowly moved down the highway.

7. Each of the three IDOT vehicles were orange and equipped with a brightly lit, flashing yellow arrow board directing that westbound traffic travelling in the right lane move to the left lane.

8. Plaintiff's vehicle was the middle of three IDOT trucks.

9. The IDOT vehicle behind Plaintiff, CLIFFORD PATTON, was off on the shoulder to the right side of the highway with the arrow board flashing.

10. The IDOT truck driven by Plaintiff, CLIFFORD PATTON, was properly straddling the white line and shoulder of the right lane of the roadway also with its flashing yellow arrow board directing traffic to the left lane.

11. The IDOT vehicle ahead of Plaintiff, CLIFFORD PATTON, was completely in the right lane of traffic, it too having a flashing arrow board directing traffic to the left lane.

12. At the time of this roadway maintenance, workers were on the roadway making repairs.

13. That defendant Jimmie Powell drove his semi-truck past the IDOT truck that was traveling behind plaintiff and continued driving in the right lane as he passed the dump truck driven by plaintiff.

14. That the vehicle driven by Jimmie Powell collided with the left side and rear of the vehicle driven by plaintiff.

15. The aforementioned collision was proximately caused by one or more of the following negligent acts or omissions on the part of this defendant, Jimmie Powell:

- a.) Failed to keep his semi-tractor and trailer under proper control in order to avoid colliding with plaintiff's truck;
- b.) Failed to keep a proper lookout for other vehicles on the roadway including the vehicle driven by plaintiff;
- c.) Failed to reduce the speed of his semi-tractor trailer to avoid an accident in violation of the Illinois statute 625 ILCS 5/11-601(a); and
- d.) Failed to drive his semi-truck into the left lane of traffic when passing an authorized vehicle engaged in work upon a highway in violation of Illinois statute 625 ILCS 5/11-908(a).

16. That as a direct and proximate result of the foregoing acts or omissions on the part of the defendant, plaintiff has suffered serious and permanent injuries. He has endured pain and suffering and will in the future endure great pain and

suffering. He has and will endure the loss of a normal life and enjoyment of life. He has become liable for large amounts of medical expenses and will in the future become liable for large amounts of medical expenses in being treated for his injuries. He has incurred lost wages and income and will in the future incur lost wages and income all to his detriment in a large amount.

WHEREFORE, Plaintiff prays for a judgment against the Defendant, Jimmie Powell, in amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) together with costs of suit and any other relief This Court deems justified.

Count II

Patton v. J & H Trucking, Inc. (Negligence)

NOW COMES the plaintiff, CLIFFORD PATTON, by and through his attorneys, KIRKPATRICK LAW OFFICES P.C., and in support of their complaint against the defendant, J & H TRUCKING INC., states as follows:

1. Plaintiff repeats and re-alleges paragraphs 1 through 14 of Count I to be incorporated as paragraphs 1 through 14 of Count II.

15. That the aforementioned collision was proximately caused by one or more of the following negligent acts or omission on the part of this defendant, its agents or servant:

- a.) Failed to keep its semi-tractor and trailer under proper control in order to avoid colliding with plaintiff's truck;
- b.) Failed to keep a proper lookout for other vehicles on the roadway, including the vehicle driven by plaintiff;

- c.) Failed to reduce the speed of its semi-tractor trailer to avoid an accident in violation of Illinois statute 625 ILCS 5/11-601(a); and
- d.) Failed to drive its semi-truck into the left lane of traffic when passing the vehicle driven by plaintiff in violation of Illinois statute 625 ILCS 5/11-908(a).

16. That as a direct and proximate result of the acts on the part of the Defendant, it's agents or servants, Plaintiff has suffered serious and permanent injuries. He has endured a great deal of pain and suffering and will in the future endure a great deal of pain and suffering. He has and will endure the loss of a normal life and enjoyment of life. He has become disfigured. He has become liable for large amounts of medical expenses and will in the future become liable for large amounts of medical expenses. He has in the past incurred lost wages and income and will in the future incur further lost wages and income all to his detriment in a large amount.

WHEREFORE, Plaintiff prays for a judgment against the Defendant, J & H Trucking, Inc., in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus costs.

Count III

Patton v. Jimmie Powell
(Willful and Wanton)

NOW COMES the Plaintiff, CLIFFORD PATTON, by and through his attorneys, KIRKPATRICK LAW OFFICES, P.C., and in support of their complaint against the Defendant, JIMMIE POWELL, states as follows:

1.-12. Plaintiff, CLIFFORD PATTON, repeats and re-alleges paragraphs 1 through 12 of Count I of this complaint to be incorporated as paragraphs 1 through 12 of this Count III.

13. That Defendant, JIMMIE POWELL, with willful and wanton disregard for the safety of Plaintiff, CLIFFORD PATTON, and others, ignored the flashing arrow board on the back of that vehicle and continued driving his semi-tractor trailer in the right lane of traffic as he passed the first orange IDOT truck.

14. That Defendant, JIMMIE POWELL, with willful and wanton disregard for the safety of Plaintiff, CLIFFORD PATTON, and others, ignored the flashing arrow board on the rear of Plaintiff's vehicle, remained in the right lane and collided with the rear of the IDOT truck driven by Plaintiff, CLIFFORD PATTON.

15. That the aforementioned collision was proximately caused by one or more of the following willful and wanton acts or omissions on the part of the defendant:

- a.) Failed to keep its semi-tractor and trailer under proper control in order to avoid colliding with plaintiff's truck;
- b.) Failed to keep a proper lookout for other vehicles on the roadway, including the vehicle driven by plaintiff;
- c.) Failed to reduce the speed of its semi-tractor trailer to avoid an accident in violation of Illinois statute 625 ILCS 5/11-601(a); and
- d.) Failed to drive its semi-truck into the left lane of traffic when passing the vehicle driven by plaintiff in violation of Illinois statute 625 ILCS 5/11-908(a)

16. That as a direct and proximate result on the part of the defendant, plaintiff has suffered serious and permanent injuries. He has endured a great deal

of pain and suffering and in the future will endure a great deal of pain and suffering. He has and will endure the loss of a normal life and enjoyment of life. He has become disfigured. He has become and will in the future become liable for large amounts of medical bills in being treated for said injuries. He has incurred lost wages and income and will in the future incur lost wages because of his injuries.

WHEREFORE, Plaintiff, CLIFFORD PATTON, prays for a judgment against the Defendant, JIMMIE POWELL, for compensatory damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus costs and also prays for an award of punitive damages.

Count IV

Patton v. J & H TRUCKING, INC.
(Willful and Wanton)

NOW COMES the Plaintiff, CLIFFORD PATTON, by and through his attorneys, KIRKPATRICK LAW OFFICES, P.C., and in support of their complaint against the Defendant, J & H TRUCKING, INC., states as follows:

1.-12. Plaintiff, CLIFFORD PATTON, repeats and re-alleges paragraphs 1 through 12 of Count I of this complaint to be incorporated as paragraphs 1 through 12 of this Count III.

13. That Defendant, by and through its agent or servant, Jimmie Powell, with willful and wanton disregard for the safety of plaintiff and others, ignored the flashing arrow board on the back of that vehicle and continued driving his semi-tractor trailer in the right lane of traffic as he passed the first orange IDOT truck.

14. That Defendant, by and through its agent or servant, Jimmie Powell, with willful and wanton disregard for the safety of plaintiff and others, ignored the flashing arrow board on the rear of plaintiff's vehicle, remained in the right lane and collided with the rear of the IDOT truck driven by plaintiff.

15. That the aforementioned collision was proximately caused by one or more of the following willful and wanton acts or omissions on the part of the defendant, its agent or servant:

- a.) Failed to keep its semi-tractor and trailer under proper control in order to avoid colliding with plaintiff's truck;
- b.) Failed to keep a proper lookout for other vehicles on the roadway, including the vehicle driven by plaintiff;
- c.) Failed to reduce the speed of its semi-tractor trailer to avoid an accident in violation of Illinois statute 625 ILCS 5/11-601(a); and
- d.) Failed to drive its semi-truck into the left lane of traffic when passing the vehicle driven by plaintiff in violation of Illinois statute 625 ILCS 5/11-908(a)

16. That as a direct and proximate result on the part of the defendant, its agent or servant, plaintiff has suffered serious and permanent injuries. He has endured a great deal of pain and suffering and in the future will endure a great deal of pain and suffering. He has and will endure the loss of a normal life and enjoyment of life. He has become disfigured. He has become and will in the future become liable for large amounts of medical bills in being treated for said injuries. He has incurred lost wages and income and will in the future incur lost wages because of his injuries.

WHEREFORE, Plaintiff, CLIFFORD PATTON, prays for a judgment against the Defendant, J & H TRUCKING, INC., for compensatory damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus costs and also prays for an award of punitive damages.

Respectfully submitted,

By: /s/ Eric Kirkpatrick
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***Attorney for the Plaintiff,
Clifford Patton***

CERTIFICATE OF SERVICE

The undersigned hereby swears and affirms a copy of Plaintiff's Second Amended Complaint was transmitted electronically via the Court's electronic system on this 23rd day of April, 2020, to all counsel of record.

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/s/ Eric Kirkpatrick